

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 687

Introduced by Assembly Member Fletcher

February 17, 2011

An act to amend Sections 7663, 7664, 7666, 7667, 9003, and 9102 of, and to add Sections 7913, 8623, and 9213 to, the Family Code, to amend Section 102635 of the Health and Safety Code, and to amend Section 396 of, and to add Section 398 to, the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 687, as amended, Fletcher. Adoption.

Existing law, the Uniform Parentage Act, among other provisions, provides for the termination of parental rights in adoption proceedings. Existing law requires an inquiry of the mother and any other appropriate person in an effort to identify the natural father of a child, and specifies the agencies that may conduct the inquiry.

This bill would authorize a licensed private adoption agency to conduct the inquiry in the case of a stepparent adoption.

Existing law requires the written consent of the parent or parents of a child to be filed prior to the time the adoption request is filed, and requires the written consent to be witnessed by certain persons.

The bill would allow the written consent to be filed simultaneously with the adoption request ~~or as soon as reasonably possible~~, and would also authorize a representative of a licensed adoption agency to serve as a witness. The bill would expand the list of persons that a clerk may notify when the document is filed to include a qualified court investigator.

Existing law requires the State Registrar to establish a new birth certificate upon receipt of a report of adoption for a child or a readoption order.

This bill would require the State Registrar to issue the new birth certificate within 120 days of receipt of a court report or adoption or readoption order, or within 90 days of receipt of a request to expedite from an adoptive parent of the child, whichever is later. The bill would establish a fee of \$150 for an expedited birth certificate after adoption or readoption.

The Interstate Compact on the Placement of Children, which has been adopted in this state, authorizes and governs the interstate placement of children.

This bill would authorize a licensed private adoption agency to serve as the designated administrator for any interstate placement of a nondependent child, as specified.

Existing law provides for the licensure and certification of family care homes and foster family agencies that provide foster care services.

The bill would provide that a foster care license or certification would not be required for placement of a nondependent child who is relinquished for adoption to licensed adoption agency if the child is placed in the care of prospective adoptive parents who meet specified criteria. The bill would declare that it is the policy of the state that voluntary and safe alternatives to foster care should be encouraged and supported.

The bill would revise and consolidate provisions relating to the notice required to be given to an alleged natural father prior to an adoption proceeding.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7663 of the Family Code is amended to
- 2 read:
- 3 7663. (a) In an effort to identify the natural father, inquiry
- 4 shall be made of the mother and any other appropriate person by
- 5 any of the following:
- 6 (1) The State Department of Social Services.
- 7 (2) A licensed county adoption agency.

1 (3) The licensed adoption agency to which the child is to be
2 relinquished.

3 (4) In the case of a stepparent adoption, the licensed private
4 adoption agency that is performing the investigation pursuant to
5 Section 9001, if applicable. In the case of a stepparent adoption
6 in which a licensed private adoption agency is not performing the
7 investigation pursuant to Section 9001, the board of supervisors
8 shall have the option to assign those inquiries to a licensed county
9 adoption agency, the county department designated by the board
10 of supervisors to administer the public social services program, or
11 the county probation department.

12 (b) The inquiry shall include all of the following:

13 (1) Whether the mother was married at the time of conception
14 of the child or at any time thereafter.

15 (2) Whether the mother was cohabiting with a man at the time
16 of conception or birth of the child.

17 (3) Whether the mother has received support payments or
18 promises of support with respect to the child or in connection with
19 her pregnancy.

20 (4) Whether any man has formally or informally acknowledged
21 or declared his possible paternity of the child.

22 (5) The names and whereabouts, if known, of every man
23 presumed or alleged to be the father of the child, and the efforts
24 made to give notice of the proposed adoption to each man
25 identified.

26 (c) The agency that completes the inquiry shall file a written
27 report of the findings with the court.

28 SEC. 2. Section 7664 of the Family Code is amended to read:

29 7664. (a) If, after the inquiry, the natural father is identified
30 to the satisfaction of the court, or if more than one man is identified
31 as a possible father, notice of the proceeding shall be given in
32 accordance with Section 7666. If any alleged natural father fails
33 to appear or, if appearing, fails to claim parental rights, his parental
34 rights with reference to the child shall be terminated.

35 (b) If the natural father or a man representing himself to be the
36 natural father claims parental rights, the court shall determine if
37 he is the father. The court shall then determine if it is in the best
38 interest of the child that the father retain his parental rights, or that
39 an adoption of the child be allowed to proceed. The court, in
40 making that determination, may consider all relevant evidence,

1 including the efforts made by the father to obtain custody, the age
2 and prior placement of the child, and the effects of a change of
3 placement on the child.

4 (c) If the court finds that it is in the best interest of the child that
5 the father should be allowed to retain his parental rights, the court
6 shall order that his consent is necessary for an adoption. If the
7 court finds that the man claiming parental rights is not the father,
8 or that if he is the father it is in the child's best interest that an
9 adoption be allowed to proceed, the court shall order that the
10 consent of that man is not required for an adoption. This finding
11 terminates all parental rights and responsibilities with respect to
12 the child.

13 SEC. 3. Section 7666 of the Family Code is amended to read:

14 7666. (a) Except as provided in subdivision (b), notice of the
15 proceeding shall be given to every person identified as the natural
16 father or a possible natural father in accordance with the Code of
17 Civil Procedure for the service of process in a civil action in this
18 state at least 10 days before the date of the proceeding, except that
19 publication or posting of the notice of the proceeding is not
20 required. Proof of giving the notice shall be filed with the court
21 before the petition is heard.

22 (b) Notice to a man identified as or alleged to be the natural
23 father shall not be required under any of the following
24 circumstances:

25 (1) The man's relationship to the child has been previously
26 terminated or determined not to exist by a court.

27 (2) The alleged or presumed natural father has executed a written
28 form to waive notice, deny his paternity, relinquish the child for
29 adoption, or consent to the adoption of the child.

30 (3) The whereabouts or identity of the alleged natural father are
31 unknown or cannot be ascertained.

32 (4) The alleged natural father has failed to bring an action to
33 establish his parental rights within 30 days of either of the
34 following, whichever is later:

35 (A) The date of the child's birth.

36 (B) The date that the alleged natural father was served with a
37 written notice informing him that he is or could be the father of
38 the child to be adopted, and that his parental rights could be
39 terminated without further notice if he fails to bring an action for
40 the purpose of declaring the existence of the father and child

1 relationship pursuant to subdivision (c) of Section 7630 within 30
2 days of service of the notice or the birth of the child, whichever is
3 later.

4 SEC. 4. Section 7667 of the Family Code is amended to read:

5 7667. (a) Notwithstanding any other provision of law, an action
6 to terminate the parental rights of a father of a child as specified
7 in this part shall be set for hearing not more than 45 days after
8 filing of the petition, except as provided in subdivision (c).

9 (b) The matter so set shall have precedence over all other civil
10 matters on the date set for trial, except an action to terminate
11 parental rights pursuant to Part 4 (commencing with Section 7800).

12 (c) The court may dispense with a hearing and issue an ex parte
13 order terminating parental rights if any of the following apply:

14 (1) The identity or whereabouts of the father are unknown.

15 (2) The alleged father has validly executed a waiver of the right
16 to notice or a waiver or denial of paternity.

17 (3) The alleged father has been served with written notice of
18 his alleged paternity and the proposed adoption, and he has failed
19 to bring an action pursuant to subdivision (c) of Section 7630
20 within 30 days of service of the notice or the birth of the child,
21 whichever is later.

22 SEC. 5. Section 7913 is added to the Family Code, to read:

23 7913. A licensed private adoption agency is authorized to serve
24 as the designated administrator for the Interstate Compact on the
25 Placement of Children for any interstate placement of a
26 nondependent child, including, but not limited to, cases in which
27 the licensed private adoption agency has provided adoption *service*
28 *provider* services or relinquishment services to the placing birth
29 parent or parents.

30 SEC. 6. Section 8623 is added to the Family Code, to read:

31 8623. A court may issue an order of adoption and declare that
32 it shall be entered nunc pro tunc where it will serve public policy
33 and the best interests of the adoptee.

34 SEC. 7. Section 9003 of the Family Code is amended to read:

35 9003. (a) In a stepparent adoption, the consent of either or
36 both birth parents shall be signed in the presence of a notary public,
37 court clerk, probation officer, qualified court investigator,
38 authorized representative of a licensed adoption agency, or county
39 welfare department staff member of any county of this state. The
40 petitioner, petitioner's counsel, or person before whom the consent

1 is signed shall immediately file the consent with the clerk of the
2 court where the adoption request is filed. If the request has not
3 been filed at the time the consent has been signed, the consent
4 shall be filed simultaneously with the adoption request, ~~or as soon~~
5 ~~thereafter as reasonably possible~~. Upon filing of the adopt request,
6 the clerk shall immediately notify the probation officer or, at the
7 option of the board of supervisors, the county welfare department
8 of that county.

9 (b) If the birth parent of a child to be adopted is outside this
10 state at the time of signing the consent, the consent may be signed
11 before an authorized representative of an adoption agency licensed
12 in the state or ~~county~~ *country* where the consent is being signed,
13 a notary, or other person authorized to perform notarial acts.

14 (c) The consent, when reciting that the person giving it is entitled
15 to sole custody of the child and when acknowledged before any
16 authorized witness specified in subdivision (a), is prima facie
17 evidence of the right of the person signing the consent to the sole
18 custody of the child and that person's sole right to consent.

19 (d) A birth parent who is a minor has the right to sign a consent
20 for the adoption of the birth parent's child and the consent is not
21 subject to revocation by reason of the minority.

22 SEC. 8. Section 9102 of the Family Code is amended to read:

23 9102. (a) Except as provided in Section 9100, an action or
24 proceeding of any kind to vacate, set aside, or otherwise nullify
25 an order of adoption on any ground, except fraud, shall be
26 commenced within one year after entry of the order.

27 (b) An action or proceeding of any kind to vacate, set aside, or
28 nullify an order of adoption, based on fraud, shall be commenced
29 within three years after entry of the order.

30 (c) In an action to set aside an order of adoption, the court shall
31 consider the best interests of the child.

32 SEC. 9. Section 9213 is added to the Family Code, to read:

33 9213. (a) A person who is a resident of this state may file a
34 petition for adult adoption with the court in any of the following:

35 (1) The county in which the petitioner resides.

36 (2) The county in which the adult adoptee was born or resides
37 at the time the petition was filed.

38 (3) The county in which the office of the public or private
39 agency that placed the adult adoptee for foster care or adoption
40 while the adult adoptee was a minor child is located.

1 (b) A petitioner who is not a resident of this state may file a
2 petition for adult adoption with the court in a county specified in
3 either paragraph (2) or (3) or subdivision (a).

4 SEC. 10. Section 102635 of the Health and Safety Code is
5 amended to read:

6 102635. (a) A new birth certificate shall be established by the
7 State Registrar upon receipt of either of the following:

8 (1) A report of adoption from any court of record that has
9 jurisdiction of the child in this state, another state, the District of
10 Columbia, in any territory of the United States, or in any foreign
11 country, for any child born in California and whose certificate of
12 birth is on file in the office of the State Registrar.

13 (2) A readoption order issued pursuant to Section 8919 of the
14 Family Code.

15 (3) The State Registrar shall issue the new birth certificate within
16 120 days of receipt from the court of a court report of adoption or
17 readoption order, or within 90 days of receipt of a request to
18 expedite from an adoptive parent of the child, whichever is later.
19 The fee for issuance of an expedited birth certificate after adoption
20 or readoption shall be one hundred fifty dollars (\$150) and shall
21 be submitted with the request to expedite.

22 SEC. 11. Section 396 of the Welfare and Institutions Code is
23 amended to read:

24 396. It is the policy of the state that foster care should be a
25 temporary method of care for the children of this state, that children
26 have a right to a normal home life free from abuse, that
27 reunification with the natural parent or parents or another alternate
28 permanent living situation such as adoption or guardianship is
29 more suitable to a child's well-being than is foster care, that this
30 state has a responsibility to attempt to ensure that children are
31 given the chance to have happy and healthy lives; that voluntary
32 and safe alternatives to foster care should be encouraged and
33 supported; and that, to the extent possible, the current practice of
34 moving children receiving foster care services from one foster
35 home to another until they reach the age of majority should be
36 discontinued.

37 SEC. 12. Section 398 is added to the Welfare and Institutions
38 Code, to read:

39 398. A foster care license or certification shall not be required
40 for placement of a nondependent child who is relinquished for

- 1 adoption to a licensed adoption agency, if the child is placed in
- 2 the care of prospective adoptive parents who have an approved
- 3 adoption home study that meets the criteria established by the
- 4 department for home studies conducted within the state.

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